IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

Crl.Rev.Pet.No. 835 of 1999()

CRA.230/1997 of I ADDL. SESSIONS COURT, THRISSUR
CC.632/1996 of JUDL. MAGISTRATE OF FIRST CLASS COURT, WADAKKANCHERY

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REVN. PETITIONER:

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1. AMEER,
S/O. IBRAHIM,
THANATHUPARAMBIL HOUSE,
EAST CHALAKUDY VILLAGE,
MUKUNDAPURAM TALUK,
THRISSUR DISTRICT.

2. VENUGOPALAN,
S/O. NARAYANAN, PLAKUDI VEETTIL,
VALAYAM CHIRANGARA DESOM,
IRAPURAM VILLAGE, KUNNATHUNAD TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI C.M. KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P. NO. 835 of 1999

Dated 3Ist May, 2007

ORDER

The revision petitioners are the accused in C.C.No.632/96 who stand convicted for the offence under sections 323 and 426 read with 34 IPC and sentenced to undergo simple imprisonment for one month each for the offence under sections 323 IPC and also simple imprisonment for one month each for the offence under section 426 IPC.

2. The prosecution case is that on 23-4-95 at about 9.15 a.m the accused who got annoyed as PW-1 while driving his car did not give side to the jeep driven by A1, abused him, smashed the side glass of the car and fisted on the cheek of PW-1. The evidence adduced in the matter consisted of the testimony of PWs 1 to 6; Exts.P1 to P5 and MO-1 series of glass pieces. The direct evidence in support of the testimony of the de facto complainant is the evidence of PW-2 , a petty shop owner whose shop is situated adjacent to the scene of occurrence. PW-5, the doctor has proved the wound certificate wherein a contusion on the cheek of PW-1 is noted. There is no delay in lodging the FIS or registering the crime. I find that the

evidence of PWs-1 and 2 stands not discredited. No contradictions with respect to the previous statements have been brought out.

In the circumstances, I find that the prosecution has succeeded to establish beyond reasonable doubt the offence alleged. The findings of the courts below as to the guilt of the accused are confirmed.

The counsel for the revision petitioners pleaded for leniency pointing out that the incident has taken place more than 10 years ago and that the accused were facing criminal proceedings so far. In the circumstances, I find that the sentence is liable to be modified. In the result, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs. 10,000/- each (Ten thousand only) to PW-1 and in default to undergo simple imprisonment for six months each for the offence under section 323 IPC. No separate sentence is awarded for the offence under section 426 IPC. The

accused shall appear before the JFCM, Wadakkanchery on 27-7-2007 to receive the sentence.

The Crl.R.P is allowed in part.

K.R.UDAYABHANU,

JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.R.P. 835 OF 1999

ORDER

31-5-2007.